

§ 970.3

24 CFR Ch. IX (4–1–07 Edition)

Title I of the U.S. Housing Act of 1937 (Act). The regulations in 24 CFR part 85 are not applicable to this part.

§ 970.3 Applicability.

(a) This part applies to public housing developments that are owned by public housing agencies (PHAs) and that are subject to annual contributions contracts (ACCs) under the Act.

(b) This part does not apply to the following:

(1) PHA-owned section 8 housing, or housing leased under former sections 10(c) or 23 of the Act;

(2) Demolition or disposition before the date of full availability (DOFA) of property acquired incident to the development of a public housing project (however, this exception shall not apply to dwelling units under ACC);

(3) The conveyance of public housing for the purpose of providing homeownership opportunities for lower-income families under sections 21 and 32 of the Act (42 U.S.C. 1437s and 42 U.S.C. 1437z–4, respectively), the homeownership program under former section 5(h) of the Act (42 U.S.C. 1437c(h)), or other predecessor homeownership programs;

(4) The leasing of dwelling or non-dwelling space incident to the normal operation of the project for public housing purposes, as permitted by the ACC;

(5) Making available common areas and unoccupied dwelling units in public housing projects to provide HUD-approved economic self-sufficiency services and activities to promote employment of public housing residents;

(6) The reconfiguration of the interior space of buildings (e.g., moving or removing interior walls to change the design, sizes, or number of units) without “demolition,” as defined in § 970.5. (This includes the conversion of bedroom size, occupancy type, changing the status of unit from dwelling to non-dwelling.);

(7) Easements, rights-of-way, and transfers of utility systems incident to the normal operation of the development for public housing purposes, as permitted by the ACC;

(8) A whole or partial taking by a public or quasi-public entity (taking agency) authorized to take real property by its use of police power or exer-

cise of its power of eminent domain under state law. A taking does not qualify for the exception under this paragraph unless:

(i) The taking agency has been authorized to acquire real property by use of its police power or power of eminent domain under its state law;

(ii) The taking agency has taken at least the first step in formal proceedings under its state law; and

(iii) If the taking is for a federally assisted project, the Uniform Relocation Act (URA) (42 U.S.C. 4601 *et seq.*) applies to any resulting displacement of residents and it is the responsibility of the taking agency to comply with applicable URA requirements.

(9) Demolition after conveyance of a public housing project to a non-PHA entity in accordance with an approved homeownership program under Title III of the Cranston-Gonzalez National Affordable Housing Act (HOPE I) (42 U.S.C. 1437aaa note);

(10) Units or land leased for non-dwelling purposes for one year or less;

(11) A public housing property that is conveyed by a PHA prior to DOFA to enable an owner entity to develop the property using the mixed-finance development method;

(12) Disposition of public housing property for development pursuant to the mixed-finance development method at 24 CFR part 941, subpart F;

(13) Demolition under the de minimis exception in § 970.27, except that the environmental review provisions apply, including the provisions at §§ 970.7(a)(16) and 970.13(b) of this part;

(14) Demolition (but not disposition) of severely distressed units as part of a revitalization plan under section 24 of the Act (42 U.S.C. 1437v) (HOPE VI) approved after October 21, 1998;

(15) Demolition (but not disposition) of public housing developments removed from a PHA’s inventory under section 33 of the Act, 42 U.S.C. 1437z–5.

§ 970.5 Definitions.

ACC, or *annual contributions contract*, is defined in 24 CFR 5.403.

Act means the United States Housing Act of 1937, 42 U.S.C. 1437 *et seq.*

Appropriate government officials mean the Chief Executive Officer or officers of a unit of general local government.

Assistant Secretary means the Assistant Secretary for Public and Indian Housing at HUD.

Chief Executive Officer of a unit of general local government means the elected official or the legally designated official, who has the primary responsibility for the conduct of that entity's governmental affairs. Examples of the chief executive officer of a unit of general local government are: the elected mayor of a municipality; the elected county executive of a county; the chairperson of a county commission or board in a county that has no elected county executive; and the official designated pursuant to law by the governing body of a unit of general local government.

Demolition means the removal by razing or other means, in whole or in part, of one or more permanent buildings of a public housing development. A demolition involves any four or more of the following:

- (1) Envelope removal (roof, windows, exterior walls);
- (2) Kitchen removal;
- (3) Bathroom removal;
- (4) Electrical system removal (unit service panels and distribution circuits); or
- (5) Plumbing system removal (e.g., either the hot water heater or distribution piping in the unit, or both).

Disposition means the conveyance or other transfer by the PHA, by sale or other transaction, of any interest in the real estate of a public housing development, subject to the exceptions stated in §970.3.

DOFA, or date of full availability, means the last day of the month in which substantially all (95 percent or more) of the units in a housing development are available for occupancy.

Firm financial commitment means a commitment that obligates a creditable source, lender, or equity provider, to the lending or equity investment of a specific sum of funds to be made on or before a specific date(s) and may contain contingencies or conditions that must be satisfied by the borrower (or entity receiving equity investments) before the closing of the transaction. The condition of a firm commitment must be that it is enforceable by the borrower (or entity receiving

the equity investment) upon the satisfaction of all contingencies or conditions.

PHA Plan—Means the PHA's initial, annual, and 5-year submissions under section 5A of the U.S. Housing Act of 1937, 42 U.S.C. 1437c-1.

Resident Advisory Board (RAB) has the same meaning as in §903.13(a) of this title.

Resident Council means a resident organization, the role and requirements of which are as described in 24 CFR part 964.

Total development cost has the same meaning as in 24 CFR 941.103.

§970.7 General requirements for HUD approval of a PHA demolition/disposition application.

(a) *Application for HUD Approval.* A PHA must obtain written approval from HUD before undertaking any transaction involving demolition or disposition of PHA-owned property under the ACC. Where a PHA demolishes or disposes of public housing property without HUD approval, no HUD funds may be used to fund the costs of demolition or disposition or reimburse the PHA for those costs. HUD will approve an application for demolition or disposition upon the PHA's submission of an application with the required certifications and the supporting information required by this section and §§970.15 or 970.17. Section 970.29 specifies criteria for disapproval of an application. Approval of the application under this part does not imply approval of a request for additional funding, which the PHA must make separately under a program that makes available funding for this purpose. The PHA shall submit the application for demolition or disposition and the timetable in a time and manner and in a form prescribed by HUD. The supporting information shall include:

- (1) A certification that the PHA has described the demolition or disposition in the PHA Annual Plan and timetable under 24 CFR part 903 (except in the case of small or high-performing PHAs eligible for streamlined annual plan treatment), and that the description in the PHA Annual Plan is identical to the application submitted pursuant to